

**DURHAM, NORTH CAROLINA  
MONDAY, DECEMBER 15, 2003  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: City Manager Marcia Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance.

Ms. Virginia Russell of the North Carolina Forest Service presented Mayor Bell with the 20<sup>th</sup> Tree City USA Award for the City of Durham.

Mayor Bell read proclamations declaring December 15, 2003 as *Bill of Rights Day* and *Durham Screaming Eagles Day*. Also, the Mayor congratulated the Durham Screaming Eagles for winning the 2003 Pop Warner Pee Wee Division National Championship.

Coach Hester made comments thanking everyone for their support and financial contribution.

Council Member Clement commended NCCU for their gift giving endeavor of 300 toys to children throughout Durham, congratulated Yvonne Pena and the Human Relations staff for spearheading the Domestic Violence Vigil and thanked the Parks & Recreation Department for hosting the Senior Holiday Party on December 9, 2003.

Mayor Pro Tempore Cole-McFadden requested staff to organize a reception for the Durham Screaming Eagles.

Council Member Best informed Council that he read to Ms. Patsy Johnson's class at Bethesda Elementary School.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. Relative to Consent #19 [Resolution for the Issuance of \$36,000,000 General Obligation Refunding, Series 2004], City Manager Conner noted the amount should be changed from \$36,000,000 to \$20,060,000. [There were no priority items from the City Attorney and City Clerk].

**MOTION** by Council Member Clement seconded by Council Member Stith to accept the City Manager's priority item was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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At this time during the meeting, Consent Agenda #47 [Monthly Crime Report] was discussed.

**SUBJECT: MONTHLY CRIME REPORT**

To receive the Monthly Crime Report from the Police Department.

Andy Miller, of the Police Benevolence Association, made a statement noting police officers are seeking more money since the City is losing its officers to other cities that are paying more money. He proposed the option of police officers receiving 5% for January 1, 2004, July 1, 2004, January 1, 2005 and July 1, 2005 out of the \$3.4 million surplus that was not budgeted for.

Mayor Bell noted concerns raised will be addressed, clarified the \$3.4 million surplus commenting on the ice storm cleanup reimbursement from FEMA and savings from budget cut backs, and noted the administration will report back with an interim recommendation.

City Manager Conner noted a proposal for Council consideration will be presented at the January 8, 2004 City Council Work Session.

Andy Miller asked that Tele-communicators, ID Techs and Fire personnel be included in this proposal.

Note: Council action was taken on this item later in the meeting.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 3 [Contracts], 35 [Durham Comprehensive Plan and Durham Unified Development Ordinance (UDO)] and 49 [Community Learning Center] were pulled.

**MOTION** by Council Member Clement seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES – CITY CLERK’S OFFICE**

To approve City Council Minutes for the November 17, 2003 Regular and Special City Council Meetings; and

To approve City Council action taken at the November 20, 2003 City Council Work Session.

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**MOTION** by Council Member Clement seconded by Council Member Stith to refer this item back to the City Clerk's Office was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: VOLUNTARY ANNEXATION PETITIONS SUBMITTED PRIOR TO OCTOBER 1, 2003**

**MOTION** by Council Member Clement seconded by Council Member Stith to accept the City Clerk's certification of 100% ownership as required by N.C. General Statutes 160A-58 and 160A-31; and

To adopt resolutions establishing public hearings for January 5, 2004 on the following submitted voluntary annexation petitions was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

1. Cardinal Self-Storage
2. Wanderlust Property
3. Trenton Road Properties
4. CM Herndon Park (City Owned)

**Resolution #s 9064 – 9065 – 9066 - 9067**

**SUBJECT: BIDS – VEHICLES – UNIVERSITY FORD – DURHAM AUTOMOTIVE COMPANY, INC., DBA RICK HENDRICK CHEVROLET – BOBBY MURRAY CHEVROLET, INC.**

**MOTION** by Council Member Clement seconded by Council Member Stith to accept the bid from University Ford, Inc., in the amount of \$1,438,961 for providing the City with Vehicles (Item no. 1 – Ten Compact Sedan, Item no. 2 – Two Mid Sized Sedans, Item no. 3 – One Mid-Sized Station Wagon, Item no. 4 – Three Pursuit Vehicles, Item no. 5 – Thirty-six Patrol Vehicles, Item no. 6 – One 9,200 GVWR Cargo Van, Item no. 7 – One 9,200 GVWR Raised Roof Cargo Van, Item no. 11 – One 8,600 GVWR Utility Vehicle, Item no. 12 – Six Compact Pickup Trucks, Item no. 13 – One 4 X 4 Extended Cab Compact Pickup Truck, Item no. 14 – Seven 8,600 GVWR Pickup Trucks, Item no. 15 – Two 8,600 GVWR Dump Trucks, Item no. 16 – One 8,600 GVWR 4 X 4 Pickup Truck, Item no. 17 – Four 8,600 GVWR 4 X 4 Extended Cab Pickup Trucks, Item no. 18 – One 8,600 GVWR 4 X 4 Flatbed Truck, Item no. 19 – Two 9,200 GVWR Pickup Trucks, Item no. 20 – One 9,200 GVWR Service Truck, Item no. 21 – One 10,000 GVWR Stake Body Truck, and Item no. 22 – One 10,000 GVWR 4 X 4 Service Truck); and

To authorize the City Manager to enter into a contract with University Ford, Inc., in the amount of \$1,438,961 for providing the City with Vehicles (Item no. 1 – Ten Compact Sedan, Item no. 2 – Two Mid Sized Sedans, Item no. 3 – One Mid-Sized Station Wagon, Item no. 4 – Three Pursuit Vehicles, Item no. 5 – Thirty-six Patrol Vehicles, Item no. 6 –

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One 9,200 GVWR Cargo Van, Item no. 7 – One 9,200 GVWR Raised Roof Cargo Van, Item no. 11 – One 8,600 GVWR Utility Vehicle, Item no. 12 – Six Compact Pickup Trucks, Item no. 13 – One 4 X 4 Extended Cab Compact Pickup Truck, Item no. 14 – Seven 8,600 GVWR Pickup Trucks, Item no. 15 – Two 8,600 GVWR Dump Trucks, Item no. 16 – One 8,600 GVWR 4 X 4 Pickup Truck, Item no. 17 – Four 8,600 GVWR 4 X 4 Extended Cab Pickup Trucks, Item no. 18 – One 8,600 GVWR 4 X 4 Flatbed Truck, Item no. 19 – Two 9,200 GVWR Pickup Trucks, Item no. 20 – One 9,200 GVWR Service Truck, Item no. 21 – One 10,000 GVWR Stake Body Truck, and Item no. 22 – One 10,000 GVWR 4 X 4 Service Truck); and

To accept the bid from the Durham Automotive Company, Inc., dba Rick Hendrick Chevrolet, in the amount of \$362,847.95 for providing the City with Vehicles (Item no. 8 – 14,000 GVWR Walk-in Type Van, Item no. 23 – One 10,000 GVWR 4 X 4 Platform Truck, Item no. 25 – One 40,000 GVWR Crewcab Dump Truck, Item no. 26 – One 24,000 GVWR Hydrant Service Truck, and Item no. 27 – Two 50,000 GVWR Dump Trucks); and

To authorize the City Manager to enter into a contract with the Durham Automotive Company, Inc., dba Rick Hendrick Chevrolet, in the amount of \$362,847.95 for providing the City with Vehicles (Item no. 8 – 14,000 GVWR Walk-in Type Van, Item no. 23 – One 10,000 GVWR 4 X 4 Platform Truck, Item no. 25 – One 40,000 GVWR Crewcab Dump Truck, Item no. 26 – One 24,000 GVWR Hydrant Service Truck, and Item no. 27 – Two 50,000 GVWR Dump Trucks); and

To accept the bid from Bobby Murray Chevrolet, Inc., in the amount of \$304,915.64 for providing the City with Vehicles (Item no. 9 – One 4 X 4 Compact Sport Utility Vehicle, Item no. 10 – Eight 4 x 4 Sport Utility Vehicles, and Item no. 24 – One 32,000 GVWR Dump Truck); and

To authorize the City Manager to enter into a contract with Bobby Murray Chevrolet, Inc., in the amount of \$304,915.64 for providing the City with Vehicles (Item no. 9 – One 4 X 4 Compact Sport Utility Vehicle, Item no. 10 – Eight 4 x 4 Sport Utility Vehicles, and Item no. 24 – One 32,000 GVWR Dump Truck); and

To authorize the City Manager to modify the aforementioned contracts before execution provided that modifications do not increase the dollar amount of the contracts and the modifications are consistent with the general intent of the existing version of the contracts was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: BIDS – JANITORIAL SERVICES FOR THE PUBLIC WORKS OPERATIONS CENTER - STAUNTON SALES, INC.**

**MOTION** by Council Member Clement seconded by Council Member Stith to accept the bid from Staunton Sales, Inc. in the amount of \$70,066.44 for providing Janitorial Services at the Public Works Operations Center; and

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To authorize the City Manager to enter into a contract with Staunton Sales, Inc. in the amount of \$70,066.44 for providing Janitorial Services at the Public Works Operations Center; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN – CREE RESEARCH EXPANSION, BUILDINGS 8, 9, 11 AND 12 (D03-356)**

**MOTION** by Council Member Clement seconded by Council Member Stith to approve a site plan for a proposed 170,562 square foot building expansion, in five buildings, to an existing industrial site with 375,635 square feet in buildings, with 154 additional motor vehicle parking spaces (for a total of 671 spaces) and 36 bicycle spaces, on a 9.728 acre site zoned I-2, located at 4600 Silicon Drive; northwestern corner of the intersection of Chin Page Road and Silicon Drive, PIN 0748-04-62-5405 (582-01-008C) was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT FOR BRADBURY TRACE (D03-392)**

**MOTION** by Council Member Clement seconded by Council Member Stith to approve a major site plan and preliminary plat for 171 single family lots on a 43.97 acre site, zoned PDR 3.87, with a landscape variation to allow an eight foot high berm and larger trees in lieu of shrubs in the southern buffer, located at South of Lumley Road, across from Azalea Drive. PIN 0749-04-92-5040 (partial)/Tax reference 579-01-001B (partial) was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN – NC EYE & EAR CLINIC (D03-457)**

**MOTION** by Council Member Clement seconded by Council Member Stith to approve a site plan for 'NC Eye & Ear Clinic', submitted by Integrated Design on behalf of North Carolina Eye & Ear Clinic, for a 34,000 square foot medical office building with 194 parking spaces on a 3.099 acre site zoned OI-2 and F/J-B, located at the northeast corner of Roxboro Road and Pacific Avenue, PIN 0823-12-96-4115 was approved at 7:43 p.m.

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by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN – JOHNSON LEXUS (D03-248)**

**MOTION** by Council Member Clement seconded by Council Member Stith to approve a site plan for 'Johnson Lexus', submitted by Haden Stanziale, P.A. on behalf of Dignity, LLC, for a 73,020 square foot auto dealership with 413 parking and display spaces on a 15.94 acre site zoned GC(D), MTC and F/J-B, located at the southeast corner of NC 751 and Audubon Lake Drive, PIN 0718-03-024-2858 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT STREET CLOSING - SET HEARING ON THE CLOSING OF THE PUBLIC RIGHT-OF-WAY OF A PORTION OF DREXALL AVENUE, SOUTH OF EAST LAVENDER STREET (SC03-08)**

**MOTION** by Council Member Clement seconded by Council Member Stith to adopt a resolution to set the public hearing on the proposed closing of a public right-of-way of a portion of Drexall Avenue, south of East Lavender Street for January 5, 2004 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution # 9068**

**SUBJECT: STREET CLOSING - SET HEARING ON THE CLOSING OF THE PUBLIC RIGHT-OF-WAY OF A PORTION OF LINDBERGH STREET, SOUTH OF EAST LAVENDER STREET (SC03-09)**

**MOTION** by Council Member Clement seconded by Council Member Stith to adopt a resolution to set the public hearing on the proposed closing of a public right-of-way of a portion of Lindbergh Street, south of East Lavender Street for January 5, 2004 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9069**

**SUBJECT: STREET CLOSING - SET HEARING ON THE CLOSING OF AN UNNAMED RIGHT-OF-WAY WEST OF DREXALL AVENUE AND SOUTH OF EAST LAVENDER STREET (SC03-10)**

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**MOTION** by Council Member Clement seconded by Council Member Stith to adopt a resolution to set the public hearing on the proposed closing of an unnamed right-of-way west of Drexall Avenue and south of East Lavender Street for January 5, 2004 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9070**

**SUBJECT: STREET CLOSING-SET HEARING ON THE CLOSING OF AN UNNAMED RIGHT-OF-WAY BETWEEN DREXALL AVENUE AND LINDBERGH STREET, SOUTH OF EAST LAVENDER STREET (SC03-11)**

**MOTION** by Council Member Clement seconded by Council Member Stith to adopt a resolution to set the public hearing on the proposed closing of an unnamed right-of-way between Drexall Avenue and Lindbergh Street, south of East Lavender Street, for January 5, 2004 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9071**

**SUBJECT: STREET CLOSING-SET HEARING ON THE CLOSING OF AN UNNAMED RIGHT-OF-WAY BETWEEN DREXALL AVENUE AND LINDBERGH STREET (SC03-12)**

**MOTION** by Council Member Clement seconded by Council Member Stith to adopt a resolution to set the public hearing on the proposed closing of an unnamed right-of-way between Drexall Avenue and Lindbergh Street for January 5, 2004 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9072**

**SUBJECT: BUDGET AMENDMENT TO TRANSIT FUND FOR DATA OPERATIONS FY2004**

**MOTION** by Council Member Clement seconded by Council Member Stith to adopt "An Ordinance amending the 2003-04 City of Durham Budget Ordinance, the same being Ordinance 12814 in the amount of \$1,096,413" was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance #12894**

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**SUBJECT: AMENDMENT 2 OF CONTRACT WITH SYNAGRO SOUTHEAST, INC. FOR DISPOSAL OF WATER AND WASTEWATER RESIDUALS**

To authorize the City Manager to execute an agreement extending the term of the existing contract with Synagro Southeast, Inc. for an additional five years with payments based on volume according to a schedule of rates, for an estimated annual compensation of \$466,140 in the first year with annual price increases based on CPI; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council.

**MOTION** by Council Member Clement seconded by Council Member Stith to refer this item back to the administration was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: AGREEMENT WITH HANSON AGGREGATES SOUTHEAST, INC. FOR PURCHASE OF DURHAM (FORMERLY TEER) QUARRY FOR A RAW WATER STORAGE FACILITY**

**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the City Manager to enter into an agreement with Hanson Aggregate Southeast, Inc. to purchase the quarry for a sum of \$10.00 providing that it could be used for a permanent raw water storage facility; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: HOUSEHOLD HAZARDOUS WASTE CONTRACT - ECOFLO, INC.**

**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a contract with ECOFLO, Inc. for household and City government generated hazardous waste disposal services for four years beginning January 1, 2004 with payments based on volume according to a schedule of rates, for an estimated annual compensation of \$185,000 in the first year with annual price increases based on CPI after year two; and



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To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: RESOLUTION PROVIDING FOR THE ISSUANCE OF \$20,060,000  
GENERAL OBLIGATION REFUNDING, SERIES 2004**

**MOTION** by Council Member Clement seconded by Council Member Stith to adopt a resolution providing for the Issuance of \$20,060,000 General Obligation Refunding Bonds, Series 2004 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9063**

**SUBJECT: HAZARDOUS MATERIALS DEPARTMENT OF JUSTICE  
GRANT – U S DEPARTMENT OF JUSTICE - NORTH CAROLINA  
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY,  
DIVISION OF EMERGENCY MANAGEMENT**

**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the City Manager to accept the \$90,900 Department of Justice Grant, No. DOJ02HM10; and

To adopt the City of Durham Grant Project Ordinance in the amount of \$89,880 for Terrorism Preparedness Equipment in Conjunction with the U.S. Department of Justice (DOJ) and N.C. Department of Crime Control and Public Safety, Division of Emergency Management; and

To authorize the City Manager to execute a Memorandum of Agreement between the City of Durham and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance #12895**

**SUBJECT: PROPOSED ACQUISITION FOR THE THIRD FORK CREEK  
TRAIL - ROBERTS CONSTRUCTION COMPANY**

**MOTION** by Council Member Clement seconded by Council Member Stith to approve the acquisition of approximately 14.761 acres of land located off Oak Ridge Boulevard in

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the amount of \$36,900, property of Roberts Construction Company for the construction of the Third Fork Creek Trail, Tax Map 414-01-002,006 (PIN 0820-13-22-3934 and 820-13-23-4248) and Tax Map 413-02-006 (PIN 0820-14-22-7726) was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: SUB-RECIPIENT AGREEMENT - DURHAM AFFORDABLE HOUSING COALITION, MINOR HOME REPAIR PROGRAM**

**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a sub-recipient agreement with Durham Affordable Housing Coalition in the amount of \$50,000 from FY2003/2004 CDBG funds for the development and operation of the Minor Home Repair Program; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CENTENNIAL VILLAGE - ALLOCATION OF HOME PROGRAM FUNDING TO EAGLE VILLAGE CDC FOR THE DEVELOPMENT OF AFFORDABLE HOUSING**

To authorize the City Manager to execute a loan agreement with Eagle Village CDC in the amount of \$472,897 in HOME Program funds for the development of the Centennial Village Homeownership project; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approval by City Council.

**MOTION** by Council Member Clement seconded by Council Member Stith to refer this item back to the administration was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: COMPENSATION AND CLASSIFICATION PLAN RECOMMENDATIONS**

**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the City Manager to amend the City of Durham Compensation and Classification Plan, in conjunction with a 3% structure adjustment to midpoints and maximum, effective January 1, 2004 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell,

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Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: URBAN PARK AND RECREATION RECOVERY (UPARR) AND LONG MEADOW PARK RENOVATIONS**

**MOTION** by Council Member Clement seconded by Council Member Stith to adopt a "Grant Project Ordinance for the National Park Service Urban Park and Recreation Recovery Grant of \$300,000 for Long Meadow Park Renovations during FY2003-2006" was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance #12896**

**SUBJECT: TRANSIT ADVERTISING SERVICES – MEDIA TRANSIT**

To award the contract for Transit Advertising Services to Media Transit for a term of five years with a guaranteed annual payment to the City of \$36,000 plus 56% of revenue in the first year and subsequent payments based on a schedule in the contract; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council.

**MOTION** by Council Member Clement seconded by Council Member Stith to refer this item back to the administration was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CONTRACT FOR FIXED ROUTE TRANSIT SERVICES - PROGRESSIVE TRANSPORTATION SERVICES, INC.**

**MOTION** by Council Member Clement seconded by Council Member Stith to approve a one-time payment of \$161,630 to the transit workforce's pension plan (Durham Retirement Plan, formerly TMD Retirement Plan); and

To authorize the City Manager to execute the Settlement and Release with Progressive Transportation Services, Inc. was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: WATER & SEWER EXTENSION AGREEMENT WITH A. WAYNE DANIEL, INDIVIDUAL - DANIEL TRACT**

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**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the City Manager to enter into a Water & Sewer Extension Agreement with A. Wayne Daniel, Individual, to serve Daniel Tract was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: EMERGENCY SNOW AND ICE REMOVAL**

To adopt a resolution authorizing the City Manager to enter into contracts for emergency snow and ice removal assistance in the event of a severe winter weather event.

**Note: This item was approved at the 12/4/03 Work Session with a vote of 7/0. Resolution #9060**

**SUBJECT: CONTRACT WS-78 WATER MAINS, SEWER MAINS AND SEWER OUTFALLS - H.B. WEST**

**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a contract with H.B. West for Contract WS-78 which includes eleven water and sewer projects and the installation of two sewer outfalls in the amount of \$827,415; and

To establish a contingency fund for Contract WS-78 of \$127,584; and

To authorize the City Manager to negotiate change orders for Contract WS-78 provided that the cost of all change orders does not exceed \$127,584 and the total project cost does not exceed \$955,000 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CONTRACT SR-35 SEWER MAIN REPLACEMENTS AND POINT REPAIRS - BILLINGS & GARRETT, INCORPORATED**

**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a contract with Billings & Garrett, Incorporated for Contract SR-35 which includes 34 point repairs, eight sewer main replacements and 1,728 linear feet of sewer main in the amount of \$702,880; and

To establish a contingency fund for Contract SR-35 of \$176,119; and

To authorize the City Manager to negotiate change orders for Contract SR-35 provided that the cost of all change orders does not exceed \$176,119 and the total project cost does not exceed \$879,000 was approved at 7:43 p.m. by the following vote: Ayes: Mayor

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Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CONTRACT SR-37 SEWER OUTFALL MOWING - BUSHHOG AMERICA, INCORPORATED**

**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a contract with Bushhog America, Incorporated for sewer outfall mowing in the amount of \$328,396; and

To authorize the City Manager to modify the contract before execution as long as the modifications do not increase the dollar amount and remain consistent with the general intent of the contract was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: INITIAL CONCEPTUAL DESIGN FOR MULTI-MODAL STATION**

To receive a presentation on the Initial Conceptual Design for Multi-Modal Station.

**MOTION** by Council Member Clement seconded by Council Member Stith to refer this item back to the administration was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: COMPREHENSIVE ANNUAL FINANCIAL REPORT**

**MOTION** by Council Member Clement seconded by Council Member Stith to receive a report on the Comprehensive Annual Financial Report for the Period Ended June 30, 2003 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: EAST END NEIGHBORHOOD ASSOCIATION**

**MOTION** by Council Member Clement seconded by Council Member Stith to receive comments from Marlynda W. Bodison regarding City of Durham employee workforce concerns was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MONTHLY CRIME REPORT**

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**MOTION** by Council Member Clement seconded by Council Member Stith to receive the Monthly Crime Report from the Police Department was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: DURHAM POLICE DEPARTMENT PROMOTIONAL ASSESSMENT PROCESS - NORTH CAROLINA CENTRAL UNIVERSITY**

To authorize the City Manager to execute a contract with North Carolina Central University for the Durham Police Department Promotional Assessment Process in an amount not to exceed \$119,150; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement.

*Note: This item was approved at the 12/4/03 Work Session with a vote of 7/0.*

**SUBJECT: CAROLINA THEATRE**

**MOTION** by Council Member Clement seconded by Council Member Stith to discuss the request for financial relief for the Carolina Theatre; and

To refer this item back to the administration was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MAYOR'S NOMINATION AND APPOINTMENT – RECREATION ADVISORY COMMITTEE**

**MOTION** by Council Member Clement seconded by Council Member Stith to appoint Gregory L. Jackson (Mayor's Appointee) to the Recreation Advisory Committee with a term expiring December 8, 2005 was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**[ITEMS PULLED FROM CONSENT AGENDA]**

**SUBJECT: CONTRACTS**

Mayor Bell disclosed that his daughter, Kristen Bell, works for the Department of Parks & Recreation and he will not receive any benefit.

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**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute contracts as listed; and

To authorize the City Manager to make changes to contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

<b>Contractor</b>	<b>Contract Description</b>	<b>Dept</b>	<b>CT Amt</b>
Lauriette West	Appraisal of 124 Hunt Street	Gen Ser	\$ 375.00
Intellinet	Computer-Network Analysis	TS	no cost
Complete Lawn Care	Contract Amend. increasing contract by \$4000	Housing	\$ 4,000.00
K&C Enterprises	Contract Amend. increasing contract by \$4000	Housing	\$ 4,000.00
Roy Williams	Official	P&R	\$ 1,360.00
Ricky Daye	Official	P&R	\$ 1,860.00
Carol Brown	Official	P&R	\$ 1,360.00
Darian Stokes	Official	P&R	\$ 4,000.00
Gerald Haskins	Official	P&R	\$ 1,360.00
Kendy Madden	Contract Amendment-increasing CT amount	P&R	\$ 1,500.00
Tracy Euliss	Water Aerobics	P&R	\$ 1,000.00
Joseph Daye	Official	P&R	\$ 1,360.00
Bonnie Daye	Official	P&R	\$ 1,360.00
Dennis Roberts	Official	P&R	\$ 1,360.00
Sherman Fogg	Tae Kwon Do	P&R	\$ 2,000.00
Kristen Bell	Ballet	P&R	\$ 1,200.00
Richard Moore	Official	P&R	\$ 1,500.00
Charlotte Koren	Senior Exercise	P&R	\$ 1,700.00
Frank Wong	TaiChi	P&R	\$ 3,000.00
Monica Perry	Senior Aerobics	P&R	\$ 1,560.00
Max Q Inc	Review of information Technology Disaster Recovery Plan	Audit Ser	\$ 9,100.00
GNA Design Associates	Playground Renovations Westover Park	P&R	\$ 28,900.00

**SUBJECT: DURHAM COMPREHENSIVE PLAN AND DURHAM UNIFIED DEVELOPMENT ORDINANCE (UDO)**

Council Member Best asked staff what are the transportation plans for the Northwest portion of the county and have land use plans been addressed.

City/County Planning Director Frank Duke noted the transportation element has not been completed at this time. He noted the administration has not started working on the land

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use pattern in suburban area of the county and both issues will be addressed next year. Also, he discussed the timeline for the adoption process.

**MOTION** by Council Member Stith seconded by Council Member Best to receive a presentation on the Comprehensive Plan and Unified Development Ordinance and provide direction as appropriate was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: COMMUNITY LEARNING CENTER – DURHAM COUNTY**

Delores Eaton noted she is not impressed with the exposure she has had with alternative schools and shared with Council an article entitled “*Zero Tolerance Policies Have Created a Lock Down Environment in Schools*” dated December 15 in Nation’s magazine.

To authorize the funding for the Community Learning Center in an amount not to exceed \$27,960 from the Council’s Contingency Fund; and

To adopt a “Resolution by the City Council of the City of Durham Authorizing the Charge of \$27,960 to the Contingency Account of the General Fund”; and

To authorize the City Manager to negotiate and execute an inter-local agreement with Durham County for these services.

**Note: This item was approved at the 12/4/03 Work Session with a vote of 6/0. Resolution #9059**

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: REHABILITATION OF STRUCTURE LOCATED AT 5412 FAYETTEVILLE ROAD – EVELYN S. WILLIAMS**

To authorize the City Manager to terminate the existing loan agreement to rehabilitate the property at 5412 Fayetteville Road; and

To approve the recommended program changes to the City’s Substantial Rehabilitation Program; and

To authorize the expenditure of up to \$99,500 from Durham’s Housing Bond funds for relocation and acquisition of a comparable site; and

To approve the acquisition of the property of Ms. Evelyn S. Williams; land only, located at 5412 Fayetteville Road, Tax Map 519-02-008, PIN 0729-03-22-4056, Parcel ID 147700 for \$19,500; and



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To authorize the City Manager to execute contracts in cases where the homeowner qualifies for the replacement provisions of the Rehabilitation Guidelines.

**MOTION** by Council Member Clement seconded by Council Member Stith to refer this item to the December 18, 2003 City Council Work Session was approved at 7:55 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]**

**SUBJECT: ORDERING PETITIONED IMPROVEMENT - CURB, GUTTER AND PAVING, WATER AND SEWER LATERALS ON BRENROSE CIRCLE**

Lee Murphy, of the Public Works Department, made comments on this item.

Mayor Bell opened the public hearing.

Clyde Sandy spoke in support of this improvement.

Mayor Bell declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Catotti to receive public comments; and

To adopt a resolution ordering Curb, Gutter and Paving, Water and Sewer Laterals on Brenrose Circle from Hillsborough Road (US 70) to End of Cul-De-Sac was approved at 7:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: ORDERING IMPROVEMENT UNDER E.A.A. [ENABLING ACT AUTHORITY] - SEWER MAIN ON MARYWOOD DRIVE**

Lee Murphy, of the Public Works Department, made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

**MOTION** by Council Member Stith seconded by Council Member Best to receive public comments; and

To adopt a resolution ordering a Sewer Main on Marywood Drive from Park Place to East Property Line of Tax Map 773-01-05A was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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**SUBJECT: ORDERING PETITIONED IMPROVEMENT – SEWER MAIN  
AND SEWER OUTFALL ON ANGIER AVENUE**

Lee Murphy, of the Public Works Department, made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to receive public comments; and

To adopt a resolution ordering Sewer Main and Sewer Outfall on Angier Avenue - from North Property Line of Tax Map 591-1-41 to Cortez Drive and Cortez Drive - from Angier Avenue to North Property Line of Tax Map 591-1-48 was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: PROPOSED AMENDMENTS TO THE 2000-2005 DURHAM  
CONSOLIDATED PLAN AND THE FY 2001-2002, 2002-2003 AND  
2003-2004 CONSOLIDATED ACTION PLANS**

Housing Director Charlene Montford briefed Council on the staff report. She gave an overview of Attachment B--Reprogramming of CDBG and Home Funds and Attachment C--Amendments to the CDGB and HOME programs.

Mayor Bell opened the public hearing.

Steve Hopkins, of 920-B Wadesboro Street, reminded Council of its commitment to NECD asking them to set aside \$120,000 to help the group and the community to redesign itself.

Thomas Sheppard, of 1419 Sedgefield Street, spoke in support of funding for after-school care.

Gene Cook, of 603 E. Hammond Street, spoke in support of funding for Habitat for Humanity.

Council Member Clement disclosed that he is a board member for Habitat for Humanity and will not receive any benefit from this association.

Katherine Simmons, of the Housing Department, made comments on the five-year goal giving an overview of handout provided to Council (Attachment A).

Mayor Bell requested information on the dollar amount associated with goals and source of funding.

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Relative to Attachment A (Target Population), Council Member Clement requested information on how many people, families and the number of units are being impacted by programs.

Council Member Brown spoke in support of increasing loans for next year for the 1<sup>st</sup> time homebuyers program.

It was indicated that information will be provided at the December 18, 2003 City Council Work Session.

Mayor Pro Tempore Cole-McFadden made comments on the emergency repairs programs and requested a priority list of repairs.

Mayor Bell requested information on the source of funding for emergency repairs.

Donald Hamm, of the Housing Department, gave an overview of four categories of repairs.

Steve Hopkins requested a breakdown of people going through foreclosure.

Relative to Barnes Avenues, Mayor Bell requested periodic reports relative to getting persons prepared to assume homeownership that have moved off of Barnes Avenue.

Mayor Pro Tempore Cole-McFadden asked the administration to do a comprehensive plan and to work on pulling in Durham Regional Financial to make sure residents are ready to move back to their neighborhood.

Housing Director Charlene Montford commented on the two partnerships [Durham Regional Financial and Durham Affordable Housing Coalition] that are working with the City relative to homeownership in Durham.

Jane Herman, representing Durham CAN, urged Council to contribute \$70,000 from the CDBG fund to support the childcare subsidy.

Karima Abdusamd, representing Durham CAN, spoke in support of funding for childcare subsidy.

Mayor Bell declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Council Member Stith to conduct a public hearing and receive public comments on the Proposed Amendments to the 2000-2005 Durham Consolidated Plan and the FY 2001-2002, 2002-2003 and 2003-2004 Consolidated Action Plans to be held on December 15, 2003; and

To receive a presentation on the Community Development Block Grant (CDBG) Funds was approved at 8:46 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

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Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith.  
Noes: None. Absent: None.

**SUBJECT: LAND USE PLAN AMENDMENT – MENTOCK OFFICE (A03-14)**

To receive public comment on the Mentock Office (A03-14); and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the South Durham Plan from Low Density Residential to Office.

Planning Department Recommendations: Approval

Planning Commission Recommendations: Approval (12-0)

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

**MOTION** Council Member Stith seconded by Council Member Clement to receive public comment on the Mentock Office (A03-14); and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the South Durham Plan from Low Density Residential to Office was approved at 8:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Resolution #9073**

**SUBJECT: REZONING MATTER CASE (P03-14) - RENAISSANCE VILLAGE – MIDLAND 751 DEVELOPMENT COMPANY, LLC – NORTHEAST CORNER OF THE INTERSECTION OF NC 751 AND RENAISSANCE PARKWAY**

To receive public comment on rezoning Case P03-14 (Renaissance Village); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-14 out of OI-2(D); F/J-B and MTC and placing same in and establishing same as MU(D); F/J-B.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval - (6-1)

City/County Planning Director Frank Duke made available to Council a wider land use map and the use matrix for mixed-use projects. Mr. Duke briefed Council on the staff report. He discussed the uses, setbacks and gave an overview of the committed elements associated with development plan that is outlined on pages 2-4 in the staff report.

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Relative to the architectural style, Mr. Duke noted the applicant will be attaching three elevations to their design guidelines making them committed elements. Also, he gave an overview of the transportation improvements that are required due to the proposed development. He noted the project is consistent with the small area plan, staff is recommending approval and the committed elements should address the transportation impacts.

Mayor Bell opened the public hearing.

### **Proponents**

Attorney Kenneth Spaulding, representing the applicant, spoke in support of this rezoning matter stating the applicant is seeking a mixed-use classification approval for hotel, office and retail components. He noted this proposal calls for a reduction of buildable space. Relative to traffic concerns, Mr. Spaulding noted the developer has agreed to and made committed elements of approximately \$1.2 million in road improvements near the site and as far away as NC 751 and Highway 54 and committing to parallel and consistent design guidelines to the Southpoint Mall. He stated there will be extensive use of sidewalks and trails for pedestrian amenities and the proposal is consistent with the small area plan. He urged Council to approve this rezoning request.

John Silverman, of Midland Atlantic Development Company, spoke in support of this rezoning request. He noted concerns have been addressed that were raised by the residents of Eagle Point [flipped department store building, modified intersection of Lenardo Drive and Renaissance Parkway and installation of berm]. He commented on the transportation improvements, the project, Southpoint Mall and urged Council to support this project.

Phillip Armstrong, of 8004 Crenshaw Lane, spoke in favor of this project discussing the relationship with Midland Atlantic and the community of Eagle Point and noted their concerns have been addressed.

Gregg Sandreuter, representing the owner, spoke in support of this item. He encouraged Council to remember the history that John Silverman has had with this area and his dedication to quality in building something the City will be proud of.

Attorney Malvern King, representing M S Holdings, LLC, spoke in support of this item noting that Ms. Simpson intends to build a hotel on tract 1A--affiliating with the Best Western hotel system. Attorney King noted a site plan will be filed soon after this rezoning is approved and urged Council to vote in favor of this rezoning application.

### **Opponents**

Steve Matherly, representing People's Alliance, read a statement in opposition to this rezoning request. He noted Durham does not need another Target [big box store] since there will be three in the area, cited concerns with traffic/sprawl and over estimated tax projections for Southpoint Mall. He urged Council to delay the vote on this item for one cycle.

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Milo Pyne, of 806 Vickers Avenue, spoke in opposition to this rezoning request raising concerns with the cumulative impacts [commercial development]. He urged Council to reject this project and make another effort to honor the original intent to have a primarily office/hotel project. Also, he spoke in support of delaying this item.

### **Rebuttal**

Attorney Kenneth Spaulding made comments about the three Target stores in the area and City revenues.

Steve Matherly urged Council to delay this item in order to look closely at what the applicant is proposing.

City Attorney Blinder briefed Council on the land use decision.

Mayor Pro Tempore Cole-McFadden asked the Target representative how many jobs will be created at this location and how many will pay a liveable wage of \$9.15.

Brad Syverson, representing Target, replied 400 and will provide a listing of jobs that pay a liveable wage.

Mayor Pro Tempore Cole-McFadden expressed a concern with the traffic impacts.

Attorney Kenneth Spaulding made comments on the traffic situation commenting on the level of service B and roadway improvements.

Phillip Armstrong discussed the neighborhood involvement issue.

Mayor Pro Tempore Cole-McFadden asked the representative from Target to provide a listing of positions offered by Super Target along with their pay scale.

Council Member Brown asked questions relative to the over saturation of Target stores in the area, the façade of building, tax projections and traffic improvements.

Brad Syverson, of Target, noted each of their stores is considered a long term investment and in no way would they be interested in building a store on Renaissance Parkway that would jeopardize the existing and significant investment in the City of Durham at South Square. Also, he discussed how the façade would be different and reported that Target Corporation has a history of giving back 5% of its pretax profits to charities.

Attorney Kenneth Spaulding, representing the applicant, discussed the method of how the sales tax revenues are calculated.

Earl Lewellyn, representing the applicant, gave an overview of the traffic improvements for this project. He noted extensions will be made to the existing left-turn lane to provide storage on Renaissance Parkway at Fayetteville Road; left-turn lane improvements at each of the site driveways; right-turn lane improvements, left-turn lane improvements and

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installation of a traffic signal at the main site driveway; left-turn lane driveway at the west; additional right-turn lane going westbound on Renaissance Parkway; adding a through lane and right-turn lane at northbound 751; in the area of Renaissance Parkway and 751 to provide greater storage of vehicles and timing of those signals. Also, he noted improvements that are required of other developments as well as this one include a southbound right-turn lane of 751 onto I-40; and construction of an eastbound right-turn lane on NC 54 at 751 and construction of northbound shared through /right-turn lane on NC 751.

Council Member Catotti expressed a concern with the height of the hotel at 145 feet.

John Silverman, of Midland Atlantic, committed to 90 feet being the maximum height of the hotel.

City/County Planning Director Frank Duke asked the developer if he would be able to meet the square footage requirements of the ordinance since the reduction in the height of the hotel.

John Silverman replied yes.

Council Members Clement and Stith spoke in support of this rezoning request.

Council Member Stith asked the developer about the status of the retention pond at Southpoint Mall.

Due to the condition of wetland ponds and concerns raised at previous Council meetings, John Silverman noted there had been an additional \$15,000 of landscaping added around the pond.

**MOTION** by Council Member Best seconded by Council Member Stith to extend the meeting beyond 10:00 p.m. was approved at 10:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Council Member Best spoke in support of this item.

Council Member Catotti noted due to numerous e-mails and calls received in opposition to this rezoning, mixture of uses [would prefer to see less than the 60% commercial proposed and more office/hotel]; and the size of the individual retail commercial proposed--she cannot support this rezoning request.

Mayor Bell expressed traffic impact concerns. Also, he made comments on the traffic study and the roadway capacity (level D).

City/County Planning Director Frank Duke noted traffic numbers used in the traffic analysis are consistent with development plan.

At this time, discussion was held on the permitted uses for the Mixed-used district.

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The developer agreed to including the following 21 permitted uses: 1) Artist galleries; 2) Artist studios; 3) Banks and Financial institutions; 4) Business services; 5) Diet houses; 6) Medical clinics; 7) Offices; 8) Radio and television broadcasting studios; 9) Veterinary clinics; 10) Garden centers; 11) Health clubs; 12) Movie theaters; 13) Personal service establishments; 14) Photographic studio; 15) Restaurants without drive up windows; 16) Retail stores and shops; 17) Shopping centers; 18) Showroom offices; 19) Theaters; 20) Hotels; and 21) Motels.

Mayor Bell expressed a concern about a motel being used as a permitted use.

Attorney Malvern King spoke in support of not eliminating a motel as a permitted use.

City/County Planning Director Frank Duke asked the developer if elevations presented to Council are committed elements.

Mr. Silverman replied yes.

Mr. Duke noted any motel would have to meet the 20% ratio and outlined the difference between a hotel and motel.

Mayor Bell declared the public hearing closed.

City/County Planning Director Frank Duke asked the developer if the maximum height of hotel is 90 Feet and if elevations added to the design guidelines would be committed elements.

Mr. John Silverman replied yes.

Also, he asked the developer if he is agreeing to a series of limitation of uses that would not be included: 1) Funeral homes; 2) Convenience stores (with or without gasoline sales); 3) Exhibition buildings; 4) Night clubs (night clubs may not locate adjacent to a pre-existing place of worship); 5) Recreation facilities: commercial indoor or outdoor; 6) Repair shops (without outdoor operations or storage); 7) Restaurants with drive up window); 8) Service stations; 9) Vehicle repair shops (without outside storage or operations); 10) Vehicle sales, rentals and leases; 11) Bed and breakfast inns.

Mr. Silverman replied yes.

**MOTION** by Council Member Clement seconded by Council Member Stith to receive public comment on rezoning Case P03-14 (Renaissance Village); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-14 out of OI-2(D); F/J-B and MTC and placing same in and establishing same as MU(D); F/J-B was approved at 10:33 p.m. by the following vote: Ayes: Council Members Best, Brown, Clement and Stith. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Member Catotti. Absent: None.



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**SUBJECT: REZONING MATTER CASE (P03-47) – VOLUNTEERS OF AMERICA – VOLUNTEERS OF AMERICA OF THE CAROLINAS – SOUTHWEST CORNER OF EAST CARVER STREET AND COMMONS BOULEVARD**

To receive public comment on rezoning Case P03-47 (Volunteers of America); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-47 out of OI-1; F/J-B and placing same in and establishing same as OI-2; F/J-B.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Denial - (5-2)

City/County Planning Director Frank Duke briefed Council on the staff report. He noted the request would permit the construction of a multi-family residential development at a density of 8 units per acre; however, there is no development plan associated with this project. He informed Council that they should not consider any statements made or drawings by the applicant of what the development would look like or any restrictions on use in their decision. He noted the proposal is consistent with the North Durham Plan, staff has recommended approval and the Zoning Committee recommended denial because there was no development plan included with the project.

Mayor Bell opened the public hearing.

**Proponents**

Pepper Schales-Elkins, representing the applicant, spoke in support of this rezoning. She noted this transitional housing complex (24 – 1 bedroom apartments) would service veterans and ones experiencing homelessness, commented on commitment of funding from the Veteran's Administration and others and urged Council to support this request to build two apartment complexes to serve persons with disabilities as well as homeless veterans [Maple Tree Apartment and Life House of Durham].

Scott Redinger, representing the applicant, urged Council to support this rezoning request noting this site would be convenient to shopping and services.

**Opponent**

Gloria Turner, Vice President of Council to End Homelessness in Durham and Project CARRE, spoke in opposition to this rezoning request expressing concern with the duplication of services.

Mayor Bell declared the public hearing closed.

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Mayor Pro Tempore Cole-McFadden asked the applicant who would be responsible for managing the complex and maintenance.

Pepper Schales-Elkins, representing the applicant, replied Volunteers of America manages all of its properties and discussed how property would be managed.

Council Member Brown made comments on the site location and neighborhood response.

Pepper Schales-Elkins, representing the applicant, outlined obstacles faced in obtaining a site and the neighborhood response. Also, she noted the VA has asked them to not narrow the scope on who they would serve. She noted this proposal is not a duplication of services nor would it infringe on the services that they are providing.

Frank Duke noted there is no development plan associated with this proposal so all the representation about use and operation should not be considered in Council's determination. He noted staff felt that given the surrounding uses, the land use plan designation, impact on infrastructure that it was appropriate to change the zoning without a development plan. Also, he outlined the difference between an OI-1 and OI-2 zoning.

Council Member Stith asked the applicant why they did not have a development plan.

Pepper Schales-Elkins noted Volunteers of America is a non-profit organization and it is very expensive to do a development plan.

Council Member Clement asked the applicant if they would work with Project CARRE.

Pepper Schales-Elkins replied yes.

Council Member Brown asked staff if the applicant could make committed elements.

Frank Duke replied no noting this is a straight rezoning and there can be no restrictions on use.

Mayor Bell declared the public hearing closed.

Several Council Members expressed a concern that there was no development plan for this project.

Council Member Catotti spoke in support of this item.

**MOTION** by Council Member Clement seconded by Council Member Best to receive public comment on rezoning Case P03-47 (Volunteers of America); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-47 out of OI-1; F/J-B and placing same in and establishing same as OI-2; F/J-B **FAILED** at 11:26 p.m. by the following vote: Ayes: Council Members Brown, Catotti and Clement.

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Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best and Stith. Absent: None.

**SUBJECT: REZONING MATTER CASE (P03-51) – ALBEN STREET – PERIMETER DEVELOPERS LLC – EAST SIDE OF COOK ROAD, SOUTH OF BROWN STREET**

To receive public comment on rezoning Case P03-51 (Alben Street); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-51 out of R-20 and placing same in and establishing same as R-10.

Planning Department Recommendation: Approval  
Zoning Committee Recommendation and Vote: Denial - (5-2)

City/County Planning Director Frank Duke briefed Council on the staff report noting proposal is consistent with small area plan, staff recommends approval and the Zoning Committee recommended denial due to no development plan associated with the project. Mr. Duke noted with a development plan the number of units would not change.

Mayor Bell opened the public hearing.

**Proponent**

Kelvin Green, representing the applicant, spoke in support of this rezoning request urging Council to support this project.

No one spoke in opposition to this rezoning request.

The Mayor declared the public hearing closed.

City/County Planning Director Frank Duke noted there will be no change in the lots with or without a development plan.

Council held discussion on development plan, architectural design and neighborhood response.

Relative to neighborhood concerns, Mr. Green noted there is a landowner on Brown Street requesting that water and sewer be extended and that everyone else is supportive of this rezoning.

**MOTION** by Council Member Stith seconded by Council Member Clement to receive public comment on rezoning Case P03-51 (Alben Street); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-51 out of R-

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20 and placing same in and establishing same as R-10 was approved at 11:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: REZONING MATTER CASE (P03-58)– RICKY POPE – CITY OF DURHAM - 425 PRINCESS ANNE DRIVE, NORTH OF ROSS ROAD**

To receive public comment on rezoning case P03-58; and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described R-8 and placing same in and establishing same as R-20.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval - (7-0)

City/County Planning Director Frank Duke briefed Council on the staff report noting this zoning was initiated by City Council in response to a request from the Joint City/County Planning Committee following the citation of Mr. Pope for keeping farm animals and goats on his property. He noted this request is consistent with the small area plan and staff recommended approval as well as the Zoning Committee.

Mayor Bell opened the public hearing.

There was no one to speak in support for this rezoning.

### **Opponents**

Larrivenia Lott, of 431 Princess Anne Drive, noted she has had no problem with the Popes or the goats.

Reginald Reavis, 2901 Ross Road, noted he does not have any concerns with the neighbors just the future use of the land if sold to someone who would be able to place transmission towers on the property which could have an environmental effect and impact on property values.

City/County Planning Director Frank Duke noted the location of a wireless communication facility on the property would be allowed with a R-20 with a use permit and agricultural uses are not allowed in a R-8 zoning within the City.

Mayor Bell declared the public hearing closed.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comment on rezoning case P03-58; and

**December 15, 2003**

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described R-8 and placing same in and establishing same as R-20 was approved at 11:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: ZONING TEXT AMENDMENT – STANDARDS FOR WIRELESS COMMUNICATION FACILITIES (TC03-11)**

To receive public comment on Zoning Text Amendment TC03-11 (Standards for Wireless Communication Facilities); and

To adopt an Ordinance amending the Zoning Ordinance to provide standards for wireless communication facilities.

City/County Planning Director Frank Duke briefed Council on the staff report and noted staff has recommended approval.

Susan Rabold, of CityScape, highlighted changes from the existing ordinance to the proposal discussing the separated broadcast, amateur and satellite dish requirements; increased definition section; facilities to be built; and location.

Mayor Bell opened the public hearing.

Council Member Stith asked about the status of the master plan.

Susan Rabold made comments noting steps have been taken towards a marketing plan.

Daniel Rebeor, representing Spectrasite Communications and PCIA, spoke in support of revisions to the standards for wireless communications facilities.

Mayor Bell declared the public hearing closed.

**MOTION** by Council Member Catotti seconded by Council Member Clement to receive public comment on Zoning Text Amendment TC03-11 (Standards for Wireless Communication Facilities); and

To adopt an Ordinance amending the Zoning Ordinance to provide standards for wireless communication facilities was approved at 11:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**Ordinance #12897**

**December 15, 2003**

There being no further business to come before the City Council, the meeting was adjourned at 11:53 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk